IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR
&
THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

WEDNESDAY, THE 3RD OCTOBER 2007 / 11TH ASWINA 1929

WP(C).No. 33730 of 2005(M)

PETITIONERS:
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1) **T.E.MUMTAZ, W/o.K.P.ABDUL LATHEEF, K,P.HOUSE, VELANGADI P.O., KONDOTTY, MALAPPURAM DISTRICT.**

2) **P.P.AHAMMED, S/O.HASSAN, KUMMINIPARA HOUSE, KONDOTTY, MALAPPURAM.**

3) **P.ABDUL SALEEM, P.C. HOUSE, THURACKAL P.O., KONDOTTY, MALAPPURAM.**

BY ADV. SRI.P.C.SASIDHARAN

RESPONDENTS:
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1) **THE SUPERINTENDENT OF POLICE, MALAPPURAM, S.P. OFFICE, MALAPPURAM.**

2) **THE SUB INSPECTOR OF POLICE, KONDOTTY POLICE STATION, KONDOTTY, MALAPPURAM.**

3) **THE DIRECTOR OF AERODROME, NATIONAL AIRPORT AUTHORITY, CALICUT AIRPORT, KARIPUR, MALAPPURAM DISTRICT.**

4) **THE CALICUT AIRPORT TAXI CAR DRIVERS UNION CO.ORDINATION COMMITTEE, REP: BY ITS CONVENOR ABDUL KAREEM MOULAVI, CALICUT AIRPORT, KARIPUR, MALAPPURAM DISTRICT.**

(.....2)

**5) THE SWATHANTHRA THOZHILALI UNION,
REP: BY ITS SECRETARY,
KOYAMON, CALICUT AIRPORT, KARIPUR,
MALAPPURAM DISTRICT.**

***Addl.6) K.P.HUSSAIN, THAYYIL HOUSE,
KURUPPATH P.O.,
KONDOTTY, MALAPPURAM DISTRICT.**

(*Addl.R6 impleaded as per order dtd.4.9.2007 in IA.No.11586/07)

**BY GOVT. PLEADER SRI.R.LAKSHMINARAYANAN
BY ADV. SRI.N.N.SUGUNAPALAN, SC, CALICUT AIRPOR
SRI.T.N.GIRIJA
DR.K.P.SATHEESAN
SRI.K.K.GOPINATHAN NAIR
SRI.M.R.JAYAPRASAD
SRI.K.K.RAJEEV
SMT.C.V.RAJALAKSHMI**

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 03/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 33730 of 2005(M).

Petitioner's Exhibits:-

P1: Copy of the receipt of the pre paid Taxi service dtd.19.12.1996.

P2: Copy of do. do. Dtd.9.11.2005.

P3: Copy of do. do. Dtd.7.11.2005.

P4: Copy of the receipt issued to the 3rd petitioner.

P5: Copy of the representation submitted by the petitioners dtd.21/11/2005.

P6: Copy of the representation submitted by the petitioners to S.P., Malappuram.

P7: Copy of do. do. S.I. of police, Kondotty.

P8: Copy of the judgment in WA.No.1238/94 dtd.8/12/1994.

P9: Copy of the judgment in OP.No.13734/96.

P10: Copy of the order of this Hon'ble Court dtd.6.8.2004 in WP(C).No.21533 of 2004.

P11: Copy of the receipts issued from the prepaid taxi counter in favour of Abdul Saleem, vehicle No.KLM 7052.

P12: Copy of the receipts issued from the prepaid taxi counter of Calicut Airport in favour of vehicle Nos.KL-9B 111 and KL-10 3726.

P13: Copy of the code of conduct of pre-paid taxi counter.

P14: Copy of the letter dtd.13.7.2004 issued by the co-ordination committee.

Respondents' Exhibits:-

R6(a): Copy of the agreement dtd.6.12.2005 between the Additional 6th respondent and Airport Authority of India.

R6(b): Copy of the details of the Drivers and Vehicles give to the Airport Authority of India by this respondent.

R6(c): Copy of a Specimen Receipt showing the collection of Rs.20/- from the passenger.

(.....2)

R6(d): Copy of the Receipt given by the Airports Authority of India showing the remittance of Licence Fee by this respondent for the month of August, 2007.

R6(e): Copy of the list followed upto December, 2004.

R6(f): Copy of the list prepared by this respondent for the details of drivers and vehicles for producing before the Calicut Airport Authority.

R6(g): Copy of the reply given to this respondent by the Airport Authority of India dtd.10.8.2007.

(true copy)

P.S. TO JUDGE.

Kvs/-

K. Balakrishnan Nair &
T.R. Ramachandran Nair, JJ.

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W.P.(C).NO.33730 of 2005-M

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Dated this the 3rd day of October, 2007

JUDGMENT

Balakrishnan Nair J.

The petitioners are the owners of three taxi cars bearing registration numbers KRM 3870, KL-10S 9072 and KL-7M 7052. They claim, they were registered with the Pre Paid Taxi Counter of the Calicut Airport ever since 1996, 2002 and 1996 respectively. They point out that the Pre Paid Taxi Counter was being manned by the trade unions. The drivers of some taxies, though were having registration with the Pre Paid counter, were not members of any trade unions and so, they were banned from operating taxies. Such conduct of the trade unions resulted in filing of a few writ petitions before this Court. Two of them were disposed of by Exts.P8 and P9. The above system of manning the counter remained upto 2005 and in 2005 the Airport Authority invited public tenders for manning the Pre Paid Taxi Counter. The 6th respondent herein was the successful bidder among the 11 participants in the tender. The said respondent is also the President of a trade union of taxi drivers. The petitioners submit, they engaged fresh

drivers for their vehicles who are not members of the existing trade unions and therefore their vehicles were prevented from operating under the Pre Paid Taxi Counter. Therefore, they moved the police for protection to operate the vehicles. Thereafter, this writ petition was filed. This court passed an interim order on 13.12.2005 in their favour. On the strength of that interim order, they are operating.

2. The Airport Authority has filed a statement in which it is stated that at present it is the responsibility of the 6th respondent to operate the Pre Paid Taxi Counter. The 6th respondent has filed a counter affidavit as also an additional counter affidavit. It is submitted that in Ext.R6(f) list of drivers, the three drivers of the petitioners were included as serial Nos.184, 185 and 186. Later, those drivers were changed. Since those drivers were no longer operating the vehicles, the list without their names, is being presently used. The drivers other than those persons who are included in the list, are not allowed to operate taxies under the Pre Paid Taxi Counter. The petitioners cannot claim unfettered right to sponsor any driver. This being an Airport area, only persons with good character and antecedents alone can be allowed to operate taxies. It is also submitted that the second

petitioner is involved in two criminal cases and one of them is registered under Section 55(a) of the Kerala Abkari Act. So, the petitioners' vehicles manned by unknown drivers, cannot be allowed to operate from the Pre Paid Taxi Counter, it is submitted.

3. Heard counsel on both sides. From the materials produced in this writ petition, it is clear that the petitioners' vehicles were being operated from the Pre Paid Taxi Counter of the Kozhikode Airport. It is also clear that they have changed the existing drivers and have engaged new drivers. According to the 6th respondent such change cannot be permitted. But we feel that for various reasons drivers will have to be changed. A driver may be dismissed for misconduct. Yet another driver may resign and go away taking up another employment elsewhere. Another may reach the age of superannuation and he cannot be permitted to work. So, the owner of the vehicle should be conceded freedom to change the driver. If any driver is wrongly terminated by his employer, it is for the driver or his union to take up the matter to redress his grievance. The 6th respondent cannot ban a vehicle from operating it for the reason that its driver is changed. It is equally important that such newly appointed driver should have good

character and antecedents. If any of the drivers of the petitioners is a person of doubtful character, the 6th respondent can bring it to the notice of the third respondent. The said respondent can verify the antecedents by holding a summary enquiry and decide whether the said driver should be allowed to operate or not. Similarly, if any of the vehicle-owners is indulging in any illegal activities which is not conducive to the proper functioning of the Airport, the said owner's vehicle can also be banned from operating from the Airport. If the 6th respondent has got any complaint against any of the petitioners or their drivers, he may bring it to the notice of the third respondent. In that event, the third respondent can enquire into the same and if the complaint is found correct, he can ban the vehicles/drivers of such persons. Subject to the above rights of respondents 3 and 6, we feel that the petitioners should be allowed to operate and the interim order granted in their favour should continue until they or their drivers are found ineligible for taxi operation from the Airport Pre Paid Counter by the competent officer of the National Airport Authority. It is ordered accordingly. The petitioners shall furnish the details of their drivers along with a copy of this judgment before the 6th respondent within one month

from today, so that the said respondent could verify the antecedents of them and if the employment of any of them is found objectionable, he can move the Airport Authority for appropriate orders.

The writ petition is disposed of as above.

(K. Balakrishnan Nair, Judge.)

(T.R. Ramachandran Nair, Judge.)

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